

# Caseflow Management

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# Caseflow Management

## 7-01 INTRODUCTION

### A. Definition

Caseflow management is central to the court's mission. The term caseflow management denotes management of the continuum of processes and resources necessary to move a case from the point of initiation through disposition. It is concerned with active attention by the court to the progress of each case once it has been filed with the court.

As part of the ongoing commitment to Michigan Supreme Court Administrative Order 1991-4, an Advisory Committee was established in 1992 to develop a caseflow management guide as a training and resource tool for use by the trial courts. Development of the guide was funded by the State Judicial Institute. The goal of the Committee was to develop a resource which serves the following three purposes.

1. Assist court staff in assessing their case management systems by outlining the basic components of an effective case management program and by providing detailed descriptions of assessment techniques.
2. Provide examples from both large and small, rural and urban courts of programs and procedures already in operation in Michigan that can serve as a ready resource for courts considering changes in their case management practices.
3. Emphasize the importance of judicial leadership, court administrative support, and bar involvement in the development and maintenance of an exemplary case management system.

The guide, Caseflow Management: A Practitioner's Guide, was distributed to all trial court judges, all circuit, district, and municipal court administrators and clerks, all county clerks, all probate registers, and all juvenile directors and administrators by the State Court Administrative Office.

## **7-04 CASELOAD MANAGEMENT INFORMATION REPORTS**

### **A. Authority**

The State Court Administrator, under the Supreme Court's supervision and direction, shall:

1. collect and compile statistical and other data, make reports of the business transacted by the courts, and transmit the reports to the Supreme Court so that the statistics and other data may be used in taking proper action in the administration of justice.
2. obtain reports from courts, and the judges, clerks, and other officers of the courts, in accordance with rules adopted by the Supreme Court on cases and other judicial business conducted or pending in the courts, and report on them to the Supreme Court.

[MCR 8.103(5),(7)]

(see references to various Approved SCAO forms in the following items and Section 8-05, page 8-05-01 for a list of reports to state agencies)

### **B. Speedy Trial Report**

Control of the trial calendar is vested in the trial court. The chief judge shall have filed with the State Court Administrator a monthly report setting forth the reasons for delay in the proceedings:

1. in felony cases in which there has been a delay of 28 days between the hearing on the preliminary examination or the date of the waiver of the preliminary examination and the arraignment on the information or indictment;
2. in felony cases in which there has been a delay of 6 months between the date of the arraignment on the information or indictment and the beginning of trial;
3. in misdemeanor cases in which there has been a delay of 6 months between the date of the arraignment on the warrant and complaint and the beginning of trial;
4. in felony cases in which a defendant is incarcerated longer than 6 months and in misdemeanor cases in which a defendant is incarcerated longer than 28 days.

[MCR 6.004, MCR 8.110(C)(5)]

(see forms SCAO 13 and SCAO 14, Speedy Trial Report for Circuit Court and District Court, rev. 8/90 and 10/96)

### **C. Matters Undecided Report**

Every trial judge shall, on the first business day of January, May, and September of each year, file with the State Court Administrator a certified statement in the form prescribed by the State Court Administrator, containing full information on any matter submitted to the judge for decision more than 4 months earlier which remains undecided. The judge shall also set forth in the statement the reason a matter remains undecided. For the purposes of this rule the time for submission is the time the last argument or presentation in the matter was made or the expiration of the time allowed for filing the last brief, as the case may be. If the judge has no cases to report, the word "none" on a signed report is required. [MCR 8.107] NOTE: In probate court, matters under advisement must be decided within 30 days per statute. [MCL 600.848(2)] Decisions regarding termination of parental rights must be made within 28 days after taking final proofs. [MCR 5.974(G)]

(see form SCAO 27, Statement of Matters Undecided (MCR 8.107), rev. 2/99 and SCAO 27a, Statement of Matters Undecided at Retirement, (MCR 8.107), rev. 2/99)

### **D. Reporting Requirements in Estate and Trust Proceedings**

Probate courts must report to the SCAO biannually on the first business day of January and July of each year all pending proceedings:

1. for all estates in supervised administration where the personal representative has not filed an inventory of the estate within 91 days after the date of the letters of authority or as otherwise ordered, and the inventory remains unfiled at the time of the report;
2. for all guardianships and conservatorships where the fiduciary has not filed an inventory of the estate within 56 days after the date of the letters of authority or as otherwise ordered, and the inventory remains unfiled at the time of the report;
3. for all estates in supervised administration where the personal representative has not filed an accounting within 56 days of the close of the accounting period;
4. for all guardianships and conservatorships where the fiduciary has not filed an accounting within 56 days of the close of the accounting period or within 56 days of the date of death of the ward;
5. for all estates where 28 days have elapsed since the anniversary of the original appointment of a personal representative without the filing of either
  - a. a petition for an order of complete estate settlement pursuant to MCL 700.3952
  - b. a petition for a settlement order pursuant to MCL 700.3953

- c. the sworn statement pursuant to MCL 700.3954, or
  - d. a detailed statement of the estate's continuing pendency and reasons for the delay in its closing and distribution.
6. For all cases where there has been any other instance of noncompliance with the requirements of Michigan Court Rules or Michigan Compiled Laws.

(see form SCAO 23, Delinquent Fiduciary Report, rev. 2/00)

#### **E. Use of Trial Court Caseload Reports**

The trial court caseload reports are a vital source of information for the following purposes:

- 1. policy, planning, control, and evaluation of individual caseloads with regard to assignment, scheduling, and other caseflow management events and for identifying trends;
- 2. the basis for resource allocation and budget requests including providing projections for statewide funding and assisting in resolving funding disputes;
- 3. making recommendations for additional judgeships;
- 4. comparing caseload and activities, providing feedback to trial courts, and providing information to the National Center for State Courts for national analysis;
- 5. responding to inquiries from legislative/county government, judicial and other interest groups, and providing general information to the public regarding court activities; and
- 6. compiling the Annual Report of the State Court Administrative Office to the Supreme Court regarding the caseload the trial courts.

#### **F. Trial Court Caseload Collection Reports**

- 1. SCAO 18, District Court Caseload, revised 7/02
- 2. SCAO 22, Probate Court Caseload, revised 12/01
- 3. SCAO 31, Circuit Court Caseload Report, revised 12/01
- 4. SCAO 40b, Monthly Activity Report for Family Division of Circuit Court - Juvenile, revised 11/00
- 5. SCAO 41, Office of the Friend of the Court Statistical Report, revised 7/02

Caseload data from report forms SCAO 18, SCAO 22, SCAO 31, and SCAO 40b is now collected electronically through a web-based application called the Caseload Reporting System (CRS). This system has a number of features in addition to actual data collection. For details about the CRS, see the individual caseload manuals: Caseload of Michigan Trial Court Reporting Forms and Instructions for Circuit Court, Caseload of Michigan Trial Court Reporting Forms and Instructions for District Court, and Caseload of Michigan Trial Court Reporting Forms and Instructions for Probate Court at the State Court Administrative Office website at: <http://courts.michigan.gov/scao/resources/publications/manuals/#promnl>.

## **7-05 CASE ASSIGNMENT SYSTEM**

### **A. Authority**

The chief judge has the authority and the responsibility to direct the apportionment and assignment of the business of the court, subject to the provisions of MCR 8.111. [MCR 8.110(C)(3)(b)]

### **B. Case Assignment and Reassignment Systems**

All trial courts must have a case assignment system and a case reassignment system. Generally, cases are initially assigned randomly and equally among the judges of the court in a method determined by the chief judge. If a judge cannot undertake an assigned case, the chief judge may reassign the case to another judge. When establishing a case assignment and case reassignment system, the provisions of MCR 8.111 must be carefully considered. The State Court Administrative Office is available to provide technical assistance to trial courts in creating and documenting the court's case assignment system. It is recommended that trial courts document their case assignment system through administrative order.

(for more details on case assignment systems, see Caseflow Management: A Practitioner's Guide, published by the State Court Administrative Office)

## **7-06 VISITING JUDGES**

### **A. Authority**

The chief judge has the authority and the responsibility to request assignments of visiting judges and direct the assignment of matters to the visiting judges. [MCR 8.110(C)(3)(g)]

### **B. Assignment of Visiting Judges**

Whenever all of the judges of a trial court are unable to undertake a case, or whenever a trial court needs assistance with its docket, the State Court Administrator is authorized to assign a visiting judge from another court. The State Court Administrator has approved "guidelines, policies, and procedures regarding assignment of judges". These guidelines are for the use of trial court personnel and State Court Administrative Office staff involved in the judicial assignment process. See the guideline on the State Court Administrative Office website at: [http://courts.michigan.gov/scao/resources/standards/assign\\_guidelines.pdf](http://courts.michigan.gov/scao/resources/standards/assign_guidelines.pdf). (see form SCAO 2, Assignment, rev. 1/96)

### **C. Assignment and Compensation of Sitting and Retired Judges**

#### **1. Sitting Judges**

The Supreme Court or the State Court Administrator has the right to assign a judge of any court to serve as a judge in any other court in this state except where the judge is authorized to act as a judge. [MCL 600.225(1)] The amount of compensation is set by statute. [MCL 600.225(6)]

#### **2. Retired Judges**

The Supreme Court may authorize any retired judge to perform judicial duties in any court. [MCL 600.226(1)] The compensation for a retired judge is set by statute. [MCL 600.226(2)]

If a sitting or retired judge has indicated to a court that s/he is available, an agreement should be reached with respect to the dates of availability and compensation. The court should then contact the State Court Administrative Office to obtain authority for the assignment. If a court is in need of extra judges, but has no available sitting or retired judge, the court should contact the State Court Administrative Office for assistance in finding an available judge.

(see form SCAO 50, Retired Judges Information, rev. 11/02)

#### **D. Temporary Assignment to Court of Appeals**

The Supreme Court may transfer judges from certain trial courts to the Court of Appeals to act as temporary judges. [MCL 600.306]

#### **E. Marriage Assignments**

If a judge without marriage jurisdiction (circuit, Court of Appeals, Supreme Court) wishes to perform a marriage, or a judge with marriage jurisdiction (district, municipal, or probate) wishes to perform a marriage outside the territorial jurisdiction of the court, an assignment for that purpose will be made by the State Court Administrative Office (see Section 15-07, page 15-07-01).

A telephone request to obtain a marriage assignment prior to the date is sufficient. The date of the marriage ceremony and the names of the parties should be supplied. The State Court Administrative Office will issue an assignment to the probate court in the county of the ceremony. If requested, an assignment will be made to the appropriate district court.

The State Court Administrative Office does not assign district court magistrates to other courts. (see Section 4-09, page 4-09-04)

## **7-07 ALTERNATIVE DISPUTE RESOLUTION (ADR)**

The State of Michigan, by legislation and by court rule, has several alternative dispute resolution mechanisms. The purpose of these mechanisms is to assist parties in resolving their disputes without formal adjudication in the trial court. The following is a brief explanation of the major programs which have been implemented in Michigan. For current information on alternative dispute resolution, please contact the Office of Dispute Resolution, State Court Administrative Office. For general information, visit the website at: <http://courts.michigan.gov/scao/dispute/odr.htm>.

### **A. Court Related Alternative Dispute Resolution**

#### **1. Alternative Dispute Resolution Generally**

MCR 2.410 provides that civil matters may be referred to a non-binding ADR process by stipulation of the parties, or on order of the court. Parties are encouraged to select their own ADR process, however if they do not, the court may select both the ADR process and the neutral service provider. Courts must have an approved local administrative order identifying the court's local ADR plan prior to using the authority to order persons to an ADR process. Guidelines for completing the local ADR plan are available from the State Court Administrative Office website at: <http://courts.michigan.gov/scao/resources/standards/odr/ADRplngls.pdf>. An overview of the ADR rules is available from the State Court Administrative Office, Office of Dispute Resolution.

#### **2. Mediation**

MCR 2.411 outlines key provisions of courts' use of the mediation process, including identification of matters for mediation, qualifications of mediators, and fee provisions. Standards of Conduct for mediators have been separately adopted via SCAO Administrative Memorandum 2001-01 and are available at: <http://courts.michigan.gov/scao/resources/other/proc.htm>. Qualifications for persons serving as mediator trainers are also available from the State Court Administrative Office.

#### **3. Case Evaluation in Civil Cases**

Michigan Court Rules and statutes have created a pre-trial case evaluation program for civil cases filed in the circuit, district, and probate courts. All cases involving health care provider malpractice and all other tort cases in which damages are claimed to exceed \$10,000 must receive a case evaluation. [MCL 600.4901 et seq., MCL 600.4951 et seq., MCR 2.403 and MCR 2.404]

Each trial court that submits cases to case evaluation under MCR 2.403 shall adopt by local administrative order a plan to maintain a list of persons available to serve as mediators and to assign mediators from the list to panels. The plan must be in writing and available to the public in the mediation clerk's office. (See the Guidelines for Preparing Local Administrative Orders for Selecting Case Evaluators and Case Evaluation Panels at: [http://courts.michigan.gov/scao/resources/standards/adrlao\\_guidelines.pdf](http://courts.michigan.gov/scao/resources/standards/adrlao_guidelines.pdf))

Individuals may apply to the ADR clerk to be placed on the list of case evaluators. The courts may use SCAO Approved form MC 34, Case Evaluator's Application, for this purpose if they desire. (The form is available from the State Court Administrative Office website at: <http://courts.michigan.gov/scao/courtforms/caseevaluation/mc34.pdf>).

#### **4. Mediation in Domestic Relations Cases**

Mediation in domestic relations case is authorized by MCR 3.216. Substantial amendments to the rule took effect August 1, 2000. Qualifications for persons serving as trainers of mediators are available from the State Court Administrative Office.

#### **5. Mediation in Child Custody and Parenting Time Disputes**

The Friend of the Court Act provides for mediation in child custody and parenting time disputes. These services are provided through Michigan's friend of the court offices either through utilization of in-house staff or by contract with outside agencies.

Domestic relations mediation through friend of the court offices can apply in either prejudgment or post judgment disputes as well as Paternity or Family Support Act matters. The process is voluntary. Additionally, the statute provides for confidential communications, the qualifications of domestic relations mediators, and for the entry of consent orders.

[MCL 552.513, MCL 552.515]

### **B. Non-Court Alternative Dispute Resolution**

#### **1. Uniform Arbitration Act**

Michigan has adopted the Uniform Arbitration Act which permits parties to civil actions to submit to arbitration for resolution of civil matters.

[MCL 600.5001 - .5035]

#### **2. Medical Malpractice Arbitration Act**

Michigan has adopted an act to provide for arbitration in the resolution of malpractice actions if the total amount of damages claimed is \$75,000 or less, including interest and costs. [MCL 600.2912g and 600.2912h]

### **3. Community Dispute Resolution Act**

#### **a. Authority**

The Community Dispute Resolution Program was legislatively created in 1989 to provide conciliation, mediation, or other forms and techniques of voluntary dispute resolution to persons as an alternative to the judicial process. The program is funded by the Community Dispute Resolution Fund and administered by the State Court Administrator. This program also houses the:

- Michigan Agricultural Mediation Program
- Michigan Special Education Mediation Program
- Permanency Planning Mediation Program

A list of all current Community Dispute Resolution Program centers appears in the Directory issue of the Michigan Bar Journal. The list, plus other information about the program, can be obtained by contacting the State Court Administrative Office or by visiting the website at: <http://courts.michigan.gov/scao/dispute/index.htm>. [MCL 691.1553-.1554]

#### **b. Funding**

The Community Dispute Resolution Fund is funded by a \$2.00 portion of civil and small claims filing fees in the circuit and district courts. The funds are distributed to non-profit or governmental organizations which provide dispute resolution services. [MCL 691.1560(3), MCL 600.837(2)]

### **C. ADR Information**

ADR practice is quickly evolving in Michigan. For current information about the use of ADR in the courts, availability of training, academic programs, and further resources, please contact:

Office of Dispute Resolution  
State Court Administrative Office  
Box 30048  
Lansing MI 48909

Telephone: (517) 373-4839

FAX: (517) 373-8922

<http://courts.michigan.gov/scao/dispute.odr.htm>